

**RINCON BAND OF LUISEÑO MISSION INDIANS  
RINCON INDIAN RESERVATION, CALIFORNIA**



**RINCON REGISTRATION, CENSUS &  
EXCLUSION ORDINANCE**

**RINCON TRIBAL CODE §15.600**

Adopted March 17, 1995  
Amended September 12, 2019

RINCON REGISTRATION, CENSUS & EXCLUSION ORDINANCE

Rincon Tribal Code § 15.600

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**Table of Contents**

§ 15.600 TITLE ..... 1

§ 15.601 DEFINITIONS..... 1

§ 15.602 AUTHORITY ..... 3

§ 15.603 FINDINGS ..... 3

§ 15.604 APPLICABILITY TO NON-INDIAN ACTIVITIES ON TRIBAL LANDS  
WITHIN THE RESERVATION ..... 4

§ 15.605 APPLICABILITY TO NON-INDIAN ACTIVITIES ON NON-INDIAN  
OWNED FEE LANDS WITHIN THE RESERVATION ..... 5

§ 15.606 EXCEPTIONS TO THE REGISTRATION REQUIREMENTS ..... 6

§ 15.607 GROUNDS FOR SANCTIONS UNDER THIS ORDINANCE..... 6

§ 15.608 SANCTIONS FOR VIOLATION OF THIS ORDINANCE..... 7

§ 15.609 ENFORCEMENT PROCEDURES ..... 7

§ 15.610 REGISTRATION ..... 8

§ 15.611 REGISTRATION CARD ..... 9

§ 15.612 RENEWAL ..... 9

§ 15.613 PENALTIES FOR NON-COMPLIANCE ..... 9

§ 15.614 SEVERABILITY ..... 9

§ 15.615 EFFECTIVE DATE..... 9

§ 15.616 NO WAIVER OF SOVEREIGN IMMUNITY ..... 9

RINCON REGISTRATION, CENSUS & EXCLUSION ORDINANCE

Rincon Tribal Code § 15.600

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§ 15.600 **TITLE**

This Ordinance is adopted to enact and implement regulations governing the development of a Reservation census and the creation of procedures for fines and exclusion of persons from the Reservation. These regulations shall be known as “Rincon Registration, Census and Exclusion Ordinance”.

§ 15.601 **DEFINITIONS**

For the purposes of this Ordinance, the following definitions shall apply:

(a) **“Articles of Association”** means that certain organizational document setting forth rules of procedure to govern the operations and recognize the governing body of the Tribe, adopted by the General Membership on February 14, 1960, and approved by the Commissioner of Indian Affairs on March 15, 1960.

(b) **“Attorney General”** means the chief legal officer of the Tribe appointed by the Tribal Council to execute the day-to-day governmental and commercial legal affairs of the Tribal Government.

(c) **“Business Committee”** means the five-member Business Committee established under Section 3 (a) of the Articles of Association. "Business Committee" shall be synonymous with “Tribal Council” or “Rincon Tribal Council” as may be used in this Ordinance or any existing or future Tribal ordinance.

(d) **“Census”** means a periodic Tribal governmental count of the Reservation population that includes social and economic information (such as Member status, occupations, ages, and incomes).

(e) **“Guest”** means a person on the Reservation with the intent to remain on the Reservation or who is otherwise eligible to receive governmental services from the Tribe or a commercial service provider authorized to conduct business on the reservation.

(f) **“Member”** means enrolled member of the Tribe and shall have the same meaning as “Tribal Member” or “Band Member.”

(g) **“Ordinance”** means this Rincon Registration, Census and Exclusion Ordinance, as amended from time to time.

RINCON REGISTRATION, CENSUS & EXCLUSION ORDINANCE

Rincon Tribal Code § 15.600

---

(h) **“Patron”** means a person who is a customer of a business enterprise located on the Reservation.

(i) **“Reservation”** means all lands within the boundaries of the Rincon Reservation, including, but not limited to:

all lands within the territorial boundaries of the Rincon Indian Reservation as established by the Executive Order of the President issued on March 2, 1881, the Mission Indian Relief Act, 26 Stat. 712 (1891), the trust patent issued by the President on September 13, 1892, the Act of Congress of August 16, 1941, 55 Stat. 622, the February 12, 1968 Order setting aside land for the Rincon Band and the trust patent issued on January 20, 1971, which established and added to the Rincon Reservation, and any fee land acquired in trust pursuant to 25 U.S.C. 461 and its implementing regulations, and such other lands as may thereafter be added thereto or made a part thereof; and all other trust, restricted, or tribally owned lands, regardless of whether they have been formally added to or made part of the Rincon Reservation.

(j) **“Resident”** means any person who resides on the Rincon Reservation.

(k) **“Tribal Council”** means the five-member Business Committee established under Section 3 (a) of the Articles of Association. "Tribal Council" shall be synonymous with “Business Committee” or “Rincon Business Committee” as used in this Ordinance or any existing or future Tribal ordinance.

(l) **“Tribal Court”** means the Intertribal Court of Southern California or other tribal forum designated by the Tribal Council to hear and decide violations of Tribal Law.

(m) **“Tribal Government”** means the Rincon Tribal Government, the Tribal Council, elected and appointed committees, Executive Officers, its arms, agencies, departments, instrumentalities, entities and enterprises.

(n) **“Tribal Government Office”** means the Member Services Department of the Tribal Government, located at One Government Center Lane, Valley Center, California 92082.

RINCON REGISTRATION, CENSUS & EXCLUSION ORDINANCE

Rincon Tribal Code § 15.600

---

(o) “**Tribal Land**” means land within the Reservation that is held in trust by the United States for the benefit of the Tribe, includes assigned land but exclusive of allotted land.

(p) “**Tribal Law**” means the laws, ordinances, policies and procedures enacted by the Tribal Council.

(q) “**Tribe**” means the Rincon Band of Luiseño Indians of the Rincon Reservation, Valley Center, California, and the agencies, entities, arms and enterprises of the Tribe, as appropriate, either together or separately. “Tribe” means the same as “Band.”

(r) “**Visitor**” means persons who maintain a continuous presence on the Reservation for thirty (30) days or less.

§ 15.602 **AUTHORITY**

This Ordinance is established by the Tribal Council pursuant to Section 6 of the Articles of Association and pursuant to the inherent sovereignty of the Tribe.

§ 15.603 **FINDINGS**

The Tribal Council finds and declares:

(a) The Tribe is a federally recognized Indian tribe with sovereign power to regulate tribal resources, and to safeguard and promote the peace, health, safety, order and general welfare of its Members.

(b) The presence of transients and persons occupying land illicitly presents a clear and present danger to the safety and health of our tribal members. The Tribe has experienced numerous dangerous and violent incidents traceable to trespass and loitering.

(c) The State of California has taken the position that its criminal trespass statutes do not apply to Indian reservations.

(d) The Tribe assumes that Tribal resources and services are directed to all Members, Guests and Visitors residing or present on the Reservation.

(e) The Tribe needs to develop an accurate Census of Tribal Members and Non-Members legally residing on the Reservation in order to: a) effectively plan and

RINCON REGISTRATION, CENSUS & EXCLUSION ORDINANCE

Rincon Tribal Code § 15.600

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deliver Tribal services; and b) identify and exclude trespassers and others who violate Federal, State and Tribal laws.

(f) In order to develop an accurate Census and provide for health, safety and welfare of the Tribe, the Tribal Council has determined that a registration process must be implemented for non-members who intend to reside within the exterior boundaries of the Reservation.

(g) The Tribe does not intend to require Members and their families to register with the Tribe but shall require Members to receive photo identification cards.

(h) The Tribal Council finds this Ordinance necessary to protect and identify Members, Guests and Visitors legally residing or otherwise present on the Reservation.

**§ 15.604 APPLICABILITY TO NON-INDIAN ACTIVITIES ON TRIBAL LANDS WITHIN THE RESERVATION**

Applicability of this Ordinance to non-Indian activities occurring on tribal lands located within the exterior boundaries of the Reservation.

(a) In *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324 (1983) and *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982), the Supreme Court held that tribes have inherent sovereign power to exclude nonmembers from tribal lands, including the lesser power to place conditions on their re-entry and continued presence through civil regulation of the nonmember activities, subject to one exception:

(1) A tribe may not regulate the activities of non-members where there is a competing state interest and the exercise of tribal authority is not essential to protect tribal self-government and to control internal relations.

(b) Prior to applying this Ordinance to non-Indian activities occurring on tribal lands located within the Reservation, the Tribal Administration enforcement officer must first determine that the non-Indian activities to be regulated fall outside of the exception set forth in Section 15.604(a)(1).

(1) The Tribal Administration enforcement officer shall include a written determination under Section 15.604(a)(1) within any Notice

RINCON REGISTRATION, CENSUS & EXCLUSION ORDINANCE

Rincon Tribal Code § 15.600

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of Violation in which non-Indian activities occurring on tribal lands located within the Rincon Reservation are the basis for the violation.

- (2) The recipient of any such Notice of Violation shall be entitled to a preliminary jurisdictional hearing before the Rincon Tribal Court.
- (3) If the recipient objects to tribal jurisdiction and requests a jurisdictional hearing, the burden shall be on the Tribe to establish tribal jurisdiction pursuant to federal common law.

**§ 15.605 APPLICABILITY TO NON-INDIAN ACTIVITIES ON NON-INDIAN OWNED FEE LANDS WITHIN THE RESERVATION**

Applicability of this Ordinance to non-Indian activities occurring on non-Indian owned fee lands located within the exterior boundaries of the Rincon Reservation.

(a) In *Montana v. United States*, 450 U.S. 544 (1981), the Supreme Court held that tribes generally do not have jurisdiction over non-Indian activities occurring on reservation fee lands, subject to two important exceptions:

- (1) A tribe may regulate the activities of non-members who enter consensual relationships with the tribe or its members, through commercial dealings, contracts, leases, or other arrangements; and
- (2) A tribe may also retain inherent power to exercise civil authority over conduct that threatens or has some direct effect on the political integrity, the economic security or the health and welfare of the tribe.

(b) Prior to applying this Ordinance to non-Indian activities occurring on fee lands located within the Rincon Reservation, the Tribal Administration enforcement officer must first determine that the non-Indian activities seeking to be regulated fall within one of the exceptions set forth in Section 15.605(a).

- (1) The Tribal Administration enforcement officer shall include a written determination under Section 15.605(a) within any Notice of Violation in which non-Indian activities occurring on fee lands located within the Rincon Reservation are the basis for the violation.

RINCON REGISTRATION, CENSUS & EXCLUSION ORDINANCE

Rincon Tribal Code § 15.600

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- (2) The recipient of any such Notice of Violation shall be entitled to a preliminary jurisdictional hearing before the Rincon Tribal Court.
- (3) If the recipient objects to tribal jurisdiction and requests a jurisdictional hearing, the burden shall be on the Tribe to establish tribal jurisdiction pursuant to federal common law.

**§ 15.606 EXCEPTIONS TO THE REGISTRATION REQUIREMENTS**

The following persons are excepted from these registration requirements:

(a) Members and their lawful spouses and children; provided, however, non-Member spouses must register if the spouse has a felony conviction or three (3) or more misdemeanor convictions for the illegal manufacture of drugs or illegal possession of weapons.

(b) Patrons of business establishments owned, operated or authorized by the Tribe.

(c) Guests of Members and registered Guests visiting the Reservation for thirty days or less. Any person who has been permanently excluded from the Reservation is not permitted to return as a Guest.

(d) Invited Guests of the Tribal Council.

(e) Persons traveling through the Reservation on public highways or roads.

(f) Tribal or federal government employees or contractors acting within the scope of their authority.

(g) Patrons and Guests who do not reside on the Reservation.

**§ 15.607 GROUND FOR SANCTIONS UNDER THIS ORDINANCE**

It shall be a civil offense and a violation of this Ordinance for any person within the exterior boundaries of the Reservation to:

(a) Fail to register or otherwise comply with the provisions of this Ordinance or any other duly enacted Tribal Law.



RINCON REGISTRATION, CENSUS & EXCLUSION ORDINANCE

Rincon Tribal Code § 15.600

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(b) Commit any act or engage in any conduct or activity which constitutes a crime or breach of the peace under the applicable laws of the Tribe, United States, or State of California.

(c) Willfully fail to adhere to tribal laws and regulations and/or fail to correct a violation of such laws and regulations after being ordered by the Tribe to do so.

(d) Invade the privacy of a Reservation resident.

(e) Enter the Reservation after being excluded by the Tribe.

(f) Willfully interfere with businesses authorized by the Tribe.

(g) Enter the Reservation if a Guest or Patron has a felony conviction under any federal or state law within the last ten (10) years and/or conviction of three or more misdemeanors as defined by Tribal Law, federal or State law which involves the use, possession or manufacture of illegal drugs and/or illegal weapons.

**§ 15.608 SANCTIONS FOR VIOLATION OF THIS ORDINANCE**

All persons found to have violated the provisions of Section 15.607 may be assessed a civil penalty of up to five-thousand dollars (\$5,000.00), including attorney's fees and costs, as well as temporary or permanent exclusion from the Reservation pursuant to §15.609 of this Ordinance.

**§ 15.609 ENFORCEMENT PROCEDURES**

The procedure for enforcement of this Ordinance shall be as follows:

(a) The Attorney General shall file a complaint in the Tribal Court requesting an injunction or temporary restraining order enjoining a violator from entering the Reservation, including traveling across or remaining on the lands or roads within the Reservation. The complaint may also request a monetary penalty and/or damages.

(b) Notice shall be served upon the alleged violator as provided in the Rules of Civil Procedure for the Tribal Court.

(c) The Tribal Court shall hold a hearing and issue its judgment pursuant to applicable Tribal Law.

RINCON REGISTRATION, CENSUS & EXCLUSION ORDINANCE

Rincon Tribal Code § 15.600

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**§ 15.610 REGISTRATION**

(a) All Guests shall register, in person, within ten (10) days of entering the Reservation. Children under 18 years of age must be registered by their parents, legal guardians or foster parents.

(b) Each person required to register shall complete a registration form at the Tribal Government Office and shall pay a twenty-five dollar (\$25.00) registration fee. Said form shall include all information requested by the Tribe including but not limited to the following:

(1) Guests eighteen (18) years of age and older must present at least two (2) forms of current identification; at least one (1) identification shall include a photograph of the person applying for registration.

(A) Acceptable forms of current identification may include but not be limited to: a valid drivers' license, passport, original or certified copy of a birth certificate, social security card, school identification card with photo, immigration documents, or other identification cards of similar reliability that can be verified independently.

(2) Guests under eighteen (18) years old must register with their parents and must present at least one proof of current identification as described in Section 15.608(b)(1)(A).

(3) Guests shall provide their name, date of birth, social security number, physical address or location, mailing address, length of time at current residence (if less than one year, the former residence address or location shall be provided), name, and address of current employer(s), reason for presence on the Reservation, number of minor children and adults living with them and shall provide the dates and locations of any felony convictions.

(c) Members will be held responsible and be liable to insure their Guests are registered.

RINCON REGISTRATION, CENSUS & EXCLUSION ORDINANCE

Rincon Tribal Code § 15.600

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**§ 15.611 REGISTRATION CARD**

Upon payment of the registration fee and verification of the information provided by the registrant, the Tribal Governmental Office shall issue the registrant a Guest permit. This permit may not be transferred, assigned, or used by any person other than the person identified on the permit. Each Guest shall be required to produce his/her permit for inspection, along with additional identification, upon demand by any Tribal Government law enforcement official.

**§ 15.612 RENEWAL**

Each Guest shall renew the Permit annually, and shall pay an annual renewal fee as established by the Tribal Council for maintaining the registration system.

**§ 15.613 PENALTIES FOR NON-COMPLIANCE**

Any person who fails to register or materially misstates or falsifies information may be excluded from the Reservation, and/or assessed a civil fine of up to five-thousand dollars (\$5,000.00), and may be assessed attorney's fees and costs in addition to any other remedies the Tribe may have.

**§ 15.614 SEVERABILITY**

If any provisions or clauses of this Ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of the remaining provisions of the Ordinance.

**§ 15.615 EFFECTIVE DATE**

This Ordinance shall take effect when adopted by a majority vote of the Tribal Council, and shall rescind, supersede and replace in its entirety any previously adopted Tribal Ordinance governing this subject matter. All Reservation Guests on the date this Ordinance is adopted shall have sixty (60) days in which to register.

**§ 15.616 NO WAIVER OF SOVEREIGN IMMUNITY**

Nothing in this Ordinance is intended to, nor should it be construed as, a waiver of the sovereign immunity of the Tribe.

RINCON REGISTRATION, CENSUS & EXCLUSION ORDINANCE

Rincon Tribal Code § 15.600

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This Ordinance is not intended to, nor shall it be construed as, establishing or recognizing any rights or interests in any tribal resources, property, lands, or other tribal holdings, to any person to whom a Permit may be issued, nor shall this Ordinance be construed as recognizing any authority in any other jurisdiction.

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